

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANDRE LAMAR YATES, )  
Petitioner, ) Case No. 07 - 1124  
vs ) District Judge Donetta W. Ambrose  
FRANKLIN J. TENNIS; )  
THE ATTORNEY GENERAL OF THE )  
COMMONWEALTH OF )  
PENNSYLVANIA; THE DISTRICT )  
ATTORNEY OF THE COUNTY OF )  
GREENE, )  
Respondents. )

ORDER

On August 16, 2007, the above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* accompanied by a Petition for Writ of Habeas Corpus (doc. no. 1) and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (doc. no. 5), filed on September 17, 2007, recommended that Petitioner's Petition be denied because he currently is pursuing state court remedies. The Report and Recommendation further recommended that a certificate of appealability be denied. The Petitioner was served with the Report and Recommendation and was advised he was allowed ten (10) days from the date of service to file written objections to the Report and Recommendation. No objections have been filed.

After review of the pleadings in the case, together with the Report and Recommendation, the following order is entered:

**AND NOW**, this 11<sup>th</sup> day of October, 2007;

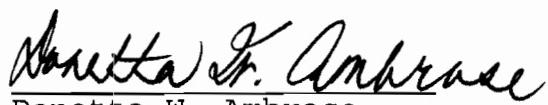
**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus is **DENIED without prejudice.**

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (doc. no. 5) of Magistrate Judge Lenihan, dated September 17, 2007, is adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



Donetta W. Ambrose  
United States District Judge, Chief

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

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